

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

Case No.: SACV - JLS (XXXx)

Plaintiff/s,

v.

Defendant/s.

**INITIAL STANDING ORDER FOR  
CASES ASSIGNED TO JUDGE  
JOSEPHINE L. STATON**

**PLEASE READ THIS ORDER CAREFULLY. IT GOVERNS THIS CASE AND  
DIFFERS IN SOME RESPECTS FROM THE LOCAL RULES.**

This case has been assigned to the calendar of Judge Josephine L. Staton. Both the Court and counsel bear responsibility for the progress of this litigation in federal court. To “secure the just, speedy, and inexpensive determination” of this case, as called for in Fed. R. Civ. P. 1, all parties or their counsel are ordered to become familiar with the Federal Rules of Civil Procedure, the Local Rules of the Central District of California, and this Court’s standing orders.

1 **THE COURT ORDERS AS FOLLOWS:**

2 **1. Service of the Complaint**

3 The plaintiff shall promptly serve the complaint in accordance with Fed. R. Civ. P.  
4 4 and file the proofs of service pursuant to [Local Rule 5-3.1](#). Although Fed. R. Civ. P.  
5 4(m) does not require the summons and complaint to be served for 120 days, the Court  
6 expects service much sooner. The Court will require plaintiffs to show good cause to  
7 extend the service deadline beyond 120 days.

8  
9 **2. Presence of Lead Counsel**

10 Lead trial counsel shall attend any scheduling, pretrial, or settlement conference set  
11 by the Court. The Court does not entertain special appearances; only counsel of record  
12 may appear.

13  
14 **3. Ex Parte Applications**

15 Ex parte applications are solely for extraordinary relief and should be used with  
16 discretion. *See Mission Power Eng'g Co. v. Continental Cas. Co.*, 883 F. Supp. 488 (C.D.  
17 Cal. 1995). Ex parte applications that fail to conform to [Local Rule 7-19 and 7-19.1](#),  
18 including a statement of opposing counsel's position, will not be considered except on a  
19 specific showing of good cause. Concurrently with service of the ex parte papers by  
20 electronic service, facsimile, or personal service, the moving party shall notify the  
21 opposition that opposing papers must be filed no later than twenty-four (24) hours (or one  
22 court day) following service. On the day the documents are e-filed, a conformed courtesy  
23 copy of moving, opposition, or notice of non-opposition papers are to be hand-delivered to  
24 the courtesy box on the 10th floor. If counsel do not intend to oppose the ex parte  
25 application, counsel must inform the Courtroom Deputy by telephone as soon as possible.

1     **4.     Continuances or Extensions of Time**

2           This Court has a strong interest in keeping scheduled dates certain. Changes in  
3 dates are disfavored. Trial dates set by the Court are firm and will rarely be changed.  
4 Therefore, any request, whether by application or stipulation, to continue the date of any  
5 matter before this Court **must** be supported by a sufficient basis that demonstrates good  
6 cause why the change in the date is essential. Without such compelling factual support,  
7 requests to continue dates set by this Court will not be approved. Counsel requesting a  
8 continuance must electronically file any application or stipulation and lodge a proposed  
9 order including a **detailed** declaration of the grounds for the requested continuance or  
10 extension of time. The Court will not consider any request that does not comply with the  
11 Local Rules and this Order. Proposed stipulations extending scheduling dates do not  
12 become effective unless and until this Court so orders. Counsel should avoid submitting  
13 requests for continuance less than at least five (5) court days prior to the expiration of the  
14 scheduled date.

15  
16           **5.     TROs and Injunctions**

17           Parties seeking emergency or provisional relief shall comply with Fed. R. Civ. P. 65  
18 and [Local Rule 65](#). The Court will not rule on any application for such relief for at least  
19 twenty-four hours after the party subject to the requested order has been served, unless  
20 service is excused. Such party may file opposing or responding papers in the interim.

21  
22           **6.     Cases Removed from State Court**

23           All documents filed in state court, including documents appended to the complaint,  
24 answers, and motions, must be refiled in this Court as a supplement to the notice of  
25 removal. *See* 28 U.S.C. § 1447(a) and (b). If the defendant has not yet answered or  
26 moved, the answer or responsive pleading filed in this Court must comply with the Federal  
27 Rules of Civil Procedure and the Local Rules. If, before the case was removed, a motion  
28

1 was pending in state court, it must be re-noticed in accordance with [Local Rule 7](#). Counsel  
2 shall file with their first appearance an original and two copies of a Notice of Interested  
3 Parties in accordance with [Local Rule 7.1](#).

4 If an action is removed to this Court that contains a form pleading, i.e., a pleading in  
5 which boxes are checked, the party or parties utilizing the form pleading must file an  
6 appropriate pleading with this Court within thirty (30) days of receipt of the Notice of  
7 Removal. The appropriate pleading referred to must comply with the requirements of Fed.  
8 R. Civ. P. 7, 7.1, 8, 9, 10 and 11.

## 10 **7. Status of Fictitiously Named Defendants**

11 This Court intends to adhere to the following procedures where a matter is removed  
12 to this Court on diversity grounds with fictitiously named defendants. *See* 28 U.S.C. §§  
13 1441(a) and 1447.

14 **a.** Plaintiff is normally expected to ascertain the identity of and serve any  
15 fictitiously named defendants within 120 days of the removal of the action to this Court.

16 **b.** If plaintiff believes (by reason of the necessity for discovery or otherwise)  
17 that fictitiously named defendants cannot be fully identified within the 120-day period, an  
18 ex parte application requesting permission to extend that period to effectuate service may  
19 be filed with this Court. Such application shall state the reasons therefore, and may be  
20 granted upon a showing of good cause. The ex parte application shall be served upon all  
21 appearing parties, and shall state that appearing parties may comment within seven (7)  
22 days of the filing of the ex parte application.

23 **c.** If plaintiff wants to substitute a defendant for one of the fictitiously named  
24 defendants, plaintiff shall first seek the consent of counsel for all defendants (and counsel  
25 for the fictitiously named party, if that party has separate counsel). If consent is withheld  
26 or denied, plaintiff should file a motion on regular notice. The motion and opposition  
27 should address whether the matter should thereafter be remanded to the superior court if  
28

1 diversity of citizenship is destroyed by the addition of the newly substituted party. *See*  
2 U.S.C. § 1447(c), (d).

## 3 4 **8. Discovery**

### 5 **a. Discovery Matters Referred to Magistrate Judge**

6 All discovery matters have been referred to the assigned United States Magistrate  
7 Judge, who will hear all discovery disputes. The Magistrate Judge's initials follow the  
8 District Judge's initials next to the case number. All discovery-related documents must  
9 include the words "DISCOVERY MATTER" in the caption to ensure proper routing.  
10 Counsel are directed to contact the Magistrate Judge's courtroom deputy clerk to  
11 schedule matters for hearing. Please deliver mandatory chambers copies of  
12 discovery related papers to the Magistrate Judge assigned to this case rather than to this  
13 Court.

14 In accordance with 28 U.S.C. § 636(b)(1)(A), the Court will not reverse any order  
15 of the Magistrate Judge unless it has been shown that the Magistrate Judge's order is  
16 clearly erroneous or contrary to law.

17 Any party may file and serve a motion for review and reconsideration before this  
18 Court. *See* [Local Rule 72-2](#). The moving party must file and serve the motion within  
19 fourteen (14) days of service of a written ruling or within fourteen (14) days of an oral  
20 ruling that the Magistrate Judge states will not be followed by a written ruling. The  
21 motion must specify which portions of the ruling are clearly erroneous or contrary to law  
22 and support the contention with points and authorities. Counsel shall deliver a conformed  
23 copy of the moving papers and responses to the Magistrate Judge's courtroom deputy clerk  
24 at the time of filing.

### 25 **b. Compliance with Fed. R. Civ. P. 26(a)**

26 Unless there is a likelihood that upon motion by a party the Court would order that  
27 any or all discovery is premature, it is advisable for counsel to begin to conduct discovery  
28

1 actively before the Scheduling Conference. At the very least, the parties shall comply fully  
2 with the letter and spirit of Fed. R. Civ. P. 26(a) and thereby obtain and produce most of  
3 what would be produced in the early stage of discovery, because the Court's Scheduling  
4 Order will impose firm deadlines to complete discovery.

## 6 **9. Applications to Seal**

7 There is a strong presumption that the public has a right of access to records in civil  
8 cases. For non-dispositive motions, the party seeking to maintain the confidentiality of the  
9 document(s) or portions thereof must show good cause. For dispositive motions, the party  
10 seeking protection must articulate compelling reasons for maintaining the confidentiality  
11 of the document(s) and must seek relief that is narrowly tailored to the protected interest.  
12 *See Pintos v. Pacific Creditors Ass'n*, 605 F.3d 665, 677-79 (9th Cir. 2010). **No document**  
13 **will be filed under seal in its entirety unless it is shown in the application that it is not**  
14 **feasible to file a redacted version for public viewing.** Any proposed redactions **must be**  
15 **highlighted** in the under seal version of the document so that the Court may readily  
16 determine what information the party or parties seek to maintain as confidential. In  
17 addition to the electronic filing of an application to seal, counsel must provide courtesy  
18 copies to Chambers.

19 In accordance with Local Rule 79-5.1, absent authorization by rule or statute, no  
20 case or document(s) may be filed under seal without written application to, and prior  
21 approval by, the Court. The existence of a Protective Order, a Stipulated Confidentiality  
22 Order, or the like, issued by the assigned Magistrate Judge relating to the treatment of  
23 documents produced during discovery, **does not** constitute a court Order permitting an  
24 under seal filing. Furthermore, an application to seal that is based **solely** on the existence  
25 of such an Order will be summarily denied. In addition, reliance upon the parties'  
26 designation of documents as "Confidential," "Highly Confidential," "Attorneys' Eyes  
27  
28

1 Only,” etc. is insufficient. Rather, the party must provide competent evidence explaining  
2 why the document(s) should be filed under seal.

3 If the party seeking to file documents under seal (the “filing party”) is not the party  
4 with an interest in the sealing/confidentiality of the documents, then the filing party shall  
5 provide the interested party with its proposed application to seal at least two (2) business  
6 days in advance of any filing. If the interested party seeks to have the documents filed  
7 under seal, it shall file a Declaration setting forth competent evidence explaining why the  
8 document(s) should be filed under seal. If the interested party fails to file a Declaration  
9 within this two-day period, the filing party is relieved of any obligation to file an  
10 application to seal and may publicly file the documents along with a Declaration of  
11 Compliance with this paragraph.

## 12 13 **10. Motions**

### 14 **a. Time for Filing and Hearing Motions**

15 Motions shall be filed in accordance with [Local Rule 7](#). This Court hears motions  
16 on **Fridays**, beginning at 2:30 p.m. It is not necessary to clear a hearing date with the  
17 Court Clerk before filing a motion. Counsel must check the Court’s website for Closed  
18 Motion Dates.

### 19 **b. Pre-Filing Requirement To Meet and Confer**

20 Counsel must comply with [Local Rule 7-3](#), which requires counsel to engage in a  
21 pre-filing conference “to discuss thoroughly . . . the substance of the contemplated motion  
22 and any potential resolution.” Counsel should discuss the issues to a sufficient degree that  
23 if a motion is still necessary, the briefing may be directed to those substantive issues  
24 requiring resolution by the Court. Counsel should resolve minor procedural or other non-  
25 substantive matters during the conference. The *in propria persona* status of one or more  
26 parties does not negate this requirement.

1           **c.       Length and Format of Motion Papers**

2           Memoranda of points and authorities shall not exceed 25 pages. *See* Local Rule 11-  
3 6. Only in rare instances and for good cause shown will the Court grant an application to  
4 extend the page limitations. All footnotes shall be in the same type size as text. *See* [Local](#)  
5 [Rule 11-3.1.1](#). Parties should not use extensive footnotes as a way to avoid page  
6 limitations. If it appears to the Court that footnotes are being used for that purpose, the  
7 Court may strike the brief and require it to be re-filed without footnotes.

8           No supplemental brief shall be filed without prior leave of Court. If documentary  
9 evidence in support of or in opposition to a motion exceeds 50 pages, the evidence must be  
10 separately bound and tabbed and include an index. If such evidence exceeds 200 pages,  
11 the documents shall be placed in a Slant D-Ring binder, with an index and with each item  
12 of evidence separated by a tab divider on the right side.

13           **d.       Supporting Evidence**

14           No party shall submit evidence other than the specific items of evidence or  
15 testimony in support of, or in opposition to, a motion. For example, entire deposition  
16 transcripts and entire sets of interrogatory responses shall not be submitted in support of,  
17 or in opposition to, a motion.

18           Evidence submitted in support of, or in opposition to, a motion should be  
19 submitted either by way of stipulation or as exhibits to declarations sufficient to  
20 authenticate the proffered evidence, and should not be attached to the memorandum of  
21 points and authorities. Documentary evidence as to which there is no stipulation  
22 regarding foundation must be accompanied by the testimony, either by declaration or  
23 properly authenticated deposition transcript, of a witness who can establish authenticity.

24           **e.       Citations to Case Law**

25           Citations to case law must identify not only the case cited, but the specific page  
26 referenced.  
27  
28



1           **f. Citations to Other Sources**

2           Statutory references should identify with specificity the sections and subsections  
3 referenced. Citations to treatises, manuals, and other materials should include the volume,  
4 section, and pages being referenced.

5           **g. Oral Argument**

6           If the Court deems a matter appropriate for decision without oral argument, the  
7 Court will notify the parties in advance.

8  
9       **11. Specific Motions**

10           **a. Motions Pursuant to Rule 12**

11           Many motions to dismiss or to strike can be avoided if the parties confer in good  
12 faith (as required by [Local Rule 7-3](#)), especially for perceived defects in a complaint,  
13 answer, or counterclaim that could be corrected by amendment. *See Chang v. Chen*, 80  
14 F.3d 1293, 1296 (9th Cir. 1996) (where a motion to dismiss is granted, a district court  
15 should provide leave to amend unless it is clear that the complaint could not be saved by  
16 any amendment). Moreover, a party has the right to amend the complaint “once as a  
17 matter of course at any time before a responsive pleading is served.” Fed. R. Civ. P. 15(a).  
18 A Rule 12(b)(6) motion is not a responsive pleading and therefore plaintiff might have a  
19 right to amend. *See, e.g., St. Michael’s Convalescent Hosp. v. California*, 643 F.2d 1369,  
20 1374 (9th Cir. 1981). Even after a complaint has been amended or a responsive pleading  
21 has been served, the Federal Rules provide that leave to amend should be “freely given  
22 when justice so requires.” Fed. R. Civ. P. 15(a). The Ninth Circuit requires that this  
23 policy favoring amendment be applied with “extreme liberality.” *Morongo Band of*  
24 *Mission Indians v. Rose*, 893 F.2d 1074, 1079 (9th Cir. 1990).

1        These principles require that plaintiff's counsel carefully evaluate defendant's  
2 contentions as to the deficiencies in the complaint. In most instances, the party moving to  
3 dismiss should agree to any amendment that would cure the defect.

4        **b.        Motions to Amend**

5        All motions to amend pleadings shall: (1) state the effect of the amendment and (2)  
6 identify the page and line number(s) and wording of any proposed change or addition of  
7 material. The proposed amended pleading shall be serially numbered to differentiate it  
8 from previously amended pleadings.

9        In addition to the requirements of [Local Rule 15-1](#), counsel shall attach as an  
10 appendix to the moving papers a "redlined" version of the proposed amended pleading  
11 indicating all additions and deletions of material.

12        **c.        Summary Judgment Motions**

13        A party may file only one summary judgment motion in a case. Parties need not  
14 wait until the motion cutoff date to bring motions for summary judgment or partial  
15 summary judgment. Whenever possible, the party moving for summary judgment should  
16 provide more than the minimum twenty-eight (28) day notice for motions. See [Local Rule](#)  
17 [6-1](#). The parties should prepare papers in a fashion that will assist the Court in absorbing  
18 the facts (e.g., generous use of tabs, tables of contents, headings, indices, etc.). The parties  
19 are to comply precisely with [Local Rules 56-1 through 56-4](#).

20        **i.        Statements of Uncontroverted Facts and Genuine Issues**

21        The Statement of Uncontroverted Facts and Conclusions of Law ("Statement of  
22 Uncontroverted Facts"), as required by Local Rule 56-1 shall separately identify each  
23 claim for relief on which the moving party seeks summary judgment and the legal  
24 grounds for summary judgment. In a two-column format beneath the identified claim  
25 for relief, the left-hand column shall set forth, sequentially numbered, each allegedly  
26 uncontroverted material fact as to that claim for relief, and the right-hand column shall set  
27 forth the evidence that supports the factual statement. Citation to the supporting evidence  
28

1 shall be specific, including reference to the exhibit, page, and line number. The Statement  
2 of Uncontroverted Facts shall be formatted based on the following examples:

3 **Plaintiff's Claim for Relief for \_\_\_\_\_ is Barred by the Applicable Statute of**  
4 **Limitations. (Cite)**

1. (Moving party's first undisputed fact)	(Supporting evidence citation)
2. (Moving party's second undisputed fact)	(Supporting evidence citation)

5  
6  
7  
8  
9 The opposing party's statement of genuine issues must be in two columns and track  
10 the movant's separate statement exactly as prepared. The left-hand column must restate  
11 the allegedly undisputed fact and the alleged supporting evidence, and the right-hand  
12 column must state either that it is undisputed or disputed. The opposing party may dispute  
13 all or only a portion of the statement, but if disputing only a portion, it must clearly  
14 indicate what part is being disputed, followed by the opposing party's evidence  
15 controverting the fact. To demonstrate that a fact is disputed, the opposing party must  
16 briefly state why it disputes the moving party's asserted fact, cite to the relevant exhibit or  
17 other piece of evidence, and describe what it is in that exhibit or evidence that refutes the  
18 asserted fact. No legal argument should be set forth in this document.

19 The opposing party may submit additional material facts that bear on or relate to the  
20 issues raised by the movant, which shall follow the format described above for the moving  
21 party's separate statement. These additional facts shall continue in sequentially numbered  
22 paragraphs and shall set forth in the right hand column the evidence that supports that  
23 statement.

## 24 **ii. Objections to Evidence**

25 If a party disputes a fact based in whole or in part on an evidentiary objection,  
26 the ground of the objection should be succinctly stated in a separate statement of  
27 evidentiary objections in a two-column format. The left column should identify the  
28

1 items objected to (including page and line number if applicable) and the right column  
2 should set forth a concise objection (e.g., hearsay, lacks foundation, etc.) with a citation to  
3 the Federal Rules of Evidence or, where applicable, a case citation.

4 **d. *Daubert* Motions**

5 Unlike other motions *in limine*, *Daubert* motions shall be filed within seven  
6 days after the expert discovery cut-off date set in the Scheduling Order docketed in the  
7 case.

8  
9 **12. Notice of This Order**

10 Plaintiff's counsel or plaintiff (if appearing on his or her own behalf) shall  
11 immediately serve this Order on all parties, including any new parties to the action. If this  
12 case came to the Court by a Petition for Removal, the removing defendant(s) shall serve  
13 this Order on all other parties.

14  
15  
16  
17 **SO ORDERED:**

18 Dated:

19  
20 \_\_\_\_\_  
21 Honorable Josephine L. Staton  
22 United States District Judge

23 Revised: August 8, 2014  
24  
25  
26  
27  
28